

Message Text

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TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: EFIN, ID

SUBJECT: INCOME TAX CONVENTION

REFERENCE: JAKARTA 14921

1. LANGUAGE QUOTE SOVEREIGN RIGHTS IN ACCORDANCE WITH
INTERNATIONAL LAW UNQUOTE IN ARTICLE 3, PARAS (I)(A)(II)
AND (I)(B)(I) IS SUFFICIENT TO SATISFY OUR POSITION DUE TO
PROTECTION OF PHRASE QUOTE IN ACCORDANCE WITH INTERNATIONAL
LAW. UNQUOTE HOWEVER, PARAS SHOULD BE IDENTICAL IN SAYING
EITHER QUOTE HAS UNQUOTE OR QUOTE EXERCISES UNQUOTE
SOVEREIGN RIGHTS. WHILE WE WOULD PREFER QUOTE EXERCISES
UNQUOTE AS IT MORE CLOSELY TRACKS 1958 CONVENTION, EITHER
TERM MAY BE USED. DEPT ALSO FEELS LANGUAGE IN PARAS
(I)(A)(II) AND (I)(B)(II) CONCERNING DEFINITION OF CON-
TINENTAL SHELF AREA SHOULD BE IDENTICAL. GOI INSISTANCE
ON USE OF PHRASE QUOTE ADJACENT SEAS UNQUOTE IS MOST LIKELY
BASED ON ARCHIPELAGO CONCEPT WHICH US DOES NOT ENDORSE.
FURTHERMORE, DIFFERENCE IN LANGUAGE MIGHT AT SOME POINT
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BE USED TO SIGNIFY DIFFERENCE IN AREA COVERED. IDEALLY,

LANGUAGE I PARA (I)(B)(II) SHOULD READ SAME AS LANGUAGE NOW IN PARA (I)(A)(II), QUOTE SEABED AND SUBSOIL OF THE SUBMARINE AREAS ADJACENT TO THE COAST THEREOF UNQUOTE AS THIS DEFINITION MOST CLOSELY TRACKS 1958 CONTINENTAL SHELF CONVENTION. HOWEVER, DEPT UNDERSTANDS EMB HAS ALREADY TRIED THIS ALTERNATIVE WITHOUT SUCCESS. AS SECOND

ALTERNATIVE, IF NOT ALREADY TRIED, DELEGATION SHOULD ATTEMPT TO CHANGE BOTH PARAGRAPHS TO READ QUOTE THE ADJACENT SEABED AND SUBSOIL OVER WHICH . . . EXERCISES SOVEREIGN RIGHTS IN ACCORDANCE WITH INTERNATIONAL LAW. UNQUOTE HOWEVER, IF GOI REMAINS INTRANSIGENT, EMB MAY ACCEPT LANGUAGE AS IT NOW READS.

2. RE PARA A4 REFTTEL, WE DO NOT UNDERSTAND MERITS OF GOI POSITION ON DEFINITION OF INDONESIA NOR DO OUR NOTES CORRESPOND TO THEIR RECOLLECTION THAT DELETION OF REFERENCE TO QUOTE REPUBLIC OF INDONESIA UNQUOTE WAS AGREED. THE DEFINITION REFERS TO A GOVERNMENT AS WELL AS A GEOGRAPHICAL AREA AND IT LOOKS STRANGE TO LIMIT THE DEFINITION TO THE LATTER. RESULTING ASYMMETRICAL DEFINITION OF THE TWO COUNTRIES IS ESPECIALLY AWKWARD. WOULD APPRECIATE EMB ARRANGING PERSONAL MEETING WITH SUTANTO AND ANY OTHER APPROPRIATE OFFICIALS TO TRY TO DETERMINE REASON BEHIND GOI POSITION. IS IT ONLY A MATTER OF FOLLOWING PRECEDENT OF DUTCH TREATY (IN WHICH CASE WHY THIS UNUSUAL FORMULATION IN THAT TREATY)? PLEASE INFORM DEPT OF RESULTS OF THIS MEETING.

3. IT IS REGRETTED THAT THE COMPLICATED ISSUES RAISED HAVE ENTAILED A DELAY IN THIS REPLY, HOWEVER IT WOULD BE APPRECIATED IF EMB WOULD DISCUSS THE CONTENTS OF THIS CABLE WITH APPROPRIATE GOI OFFICIALS AT AN EARLY DATE. KISSINGER

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